PROPOSED DECISION

Agenda ID #14851 Ratesetting

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego
Gas & Electric Company (U902G) and Southern
California Gas Company (U904G) for Authority
To Revise Their Rates Effective January 1, 2013,
in Their Triennial Cost Allocation Proceeding.

Application 11-11-002 (Filed on November 1, 2011)

DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISIONS (D.) 15-03-049 AND D.15-12-020

Intervenor: The Utility Reform Network	For contribution to Decision (D.) 15-03-049 and D.15-12-020		
Claimed: \$64,078.47	Awarded: \$47,665.97 (reduced 25.6%)		
Assigned Commissioner: Michel P. Florio	Assigned ALJ: Maribeth Bushey		

PART I: PROCEDURAL ISSUES

A. Brief description of	The Utility Reform Network (TURN), working with the			
Decision:	Office of Ratepayer Advocates (ORA), had sought rehearing of D.14-06-007 on the rate recovery issues			
	associated with PSEP costs for pipelines installed during the 1956-1961 period for which pressure test records			
	could not be located. Decision (D.) 15-03-049 created			
	an opportunity for TURN and all other interested parties to submit testimony and argument regarding these issues. And based on the submitted testimony and argument, in D.15-12-020 the Commission adopted the			
	position recommended by TURN and ORA, and the			
	costs of pressure testing pipelines installed during that period will be borne by shareholders rather than			
	ratepayers.			

159792911 - 1 -

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified			
Timely filing of notice of intent to claim	a)):				
1. Date of Prehearing Conference (PHC):	Verified				
2. Other specified date for NOI:					
3. Date NOI filed:	2/27/12	Verified			
4. Was the NOI timely filed?		Yes			
Showing of customer or customer	-related status (§ 1802(b)):				
5. Based on ALJ ruling issued in proceeding number:	A.12-11-009/I.13-03-007 (PG&E 2014 GRC)	Verified			
6. Date of ALJ ruling:	9/6/13	Verified			
7. Based on another CPUC determination (specify):					
8. Has the Intervenor demonstrated customer or custom	ner-related status?	Yes			
Showing of "significant financia	al hardship" (§ 1802(g)):				
9. Based on ALJ ruling issued in proceeding number:	A.12-11-009/I.13-03-007 (PG&E 2014 GRC), as cited in NOI here	Verified			
10. Date of ALJ ruling:	9/6/13	Verified			
11. Based on another CPUC determination (specify):					
12. Has the Intervenor demonstrated significant financia	al hardship?	Yes			
Timely request for compensation (§ 1804(c)):					
13. Identify Final Decision:	Verified				
14. Date of issuance of Final Order or Decision:	12/23/15	Verified			
15. File date of compensation request:	Verified				
16. Was the request for compensation timely?	Yes				

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
	This request for compensation covers work in a later phase of the A.11-07-008 proceeding. TURN was found eligible for an award of compensation in the earlier phase in the compensation award in D.14-10-017. Pursuant to Rule 17.2 of the Commission's Rules of Practice and Procedure, TURN remains eligible for intervenor compensation in later phases of the proceeding.	Verified. (1) In D.14-10-017, Commission awarded intervenor compensation to TURN for substantial contribution to D.14-06-007, subject to a few disallowances which reduced the total amount by \$1,469.35.
		(2) A party found eligible for an award of compensation in one phase of a proceeding remains eligible in later phases, including any rehearing, in the same proceeding. Rule 17.2.
	TURN's showing on financial hardship (relying on the rebuttable presumption) and customer status was contained in the NOI submitted during the earlier phase of this proceeding. In D.14-10-017, the Commission found TURN to have satisfied the customer status and "significant financial hardship" elements. On October 15, 2015, TURN's Board of Directors adopted amendments to TURN's bylaws and articles of incorporation. The amended version of TURN's by-laws and articles of incorporation were submitted on January 6, 2016 in A.15-09-001 (PG&E 2017 GRC). The by-laws and articles of incorporation have not changed since their submission in that proceeding.	Verified. (1) In D.14-10-017, Commission found that TURN satisfied "customer status" and had demonstrated financial hardship. At 2. (2) TURN's amended bylaws and articles of incorporation were submitted in A.15-09-001.

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (see § 1802(i), § 1803(a), and D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. Further Review of Cost Recovery Issues:		Verified
TURN worked with ORA to seek rehearing of		Verified
D.14-06-007 on the question of the appropriate	TURN-ORA Application for	
treatment of costs associated with pressure testing	Rehearing of D.14-06-007	
or replacing pipeline that had been installed		
during the 1956-1961 period, but for which the	TURN-ORA Application for	
Sempra Utilities lacked records of pressure tests	Rehearing of D.14-11-021	

performed at the time of installation. In D.14-06-007, the Commission modified the Proposed Decision in order to find that the Sempra Utilities did <u>not</u> consistently follow industry standards until General Order 112 was revised. TURN and ORA challenged that finding based on a lack of record support, both because there was no record evidence that supported such a finding, and because the record evidence supported a finding that the utilities did indeed voluntarily following industry standards even before General Order 112. In D.15-03-049, the Commission initiated further proceedings in order to obtain evidence on the utilities' practices, and related cost recovery questions, specifically to provide TURN and other interested parties an opportunity to submit evidence "[t]o conclusively	D.15-03-049, p. 7 and Ordering Paragraph 3.	
determine whether ratepayers or shareholders should cover the cost to pressure test pipeline installed between 1956-1961. 2. The Sempra Utilities' voluntary adherence		Vonici - 1
to industry standards in 1956-1961: TURN's post-rehearing testimony presented the utilities' responses to TURN data requests, and explained why those responses demonstrate that the Sempra Utilities voluntarily adhered to the 1955 standards even before G.O. 112 was adopted. The Commission concluded "the evidentiary record supports the conclusion that the Utilities' practice by 1956 was to pressure test natural gas pipeline prior to placing it in service and to prepare a record of such test, which should have been retained."	TURN Testimony of Robert Finkelstein, pp. 2-3; TURN Opening Brief, pp. 6-7. D.15-12-020, pp. 14, 16, and Findings of Fact 2-3.	Verified
3. The Sempra Utilities' Cost Recovery of Pressure Testing Costs in 1956-1961 Period: TURN's post-rehearing testimony recommended the Commission rely on reasonable inferences to find that the Sempra Utilities recovered costs in	TURN Testimony of Robert Finkelstein, pp. 3-6; TURN Opening Brief, pp. 7-11.	Verified
find that the Sempra Utilities recovered costs in revenues to pressure test pipelines installed between 1956 and 1961. The Commission applied logic consistent with that presented in TURN's testimony and briefs to find that it was the custom and practice of the utilities to seek cost recovery from ratepayers of the cost of providing gas service, and that the costs of pressure testing pipelines installed between 1956 and 1961 would have been party of the just and reasonable cost of providing public utility natural gas service during that period.	D.15-12-020, pp. 17-19, and Findings of Fact 5-7, and Conclusion of Law 7.	Verified

32.5 hours spent on this issue are removed from this claim and

4. Settlement on Treatment of "In Progress" Verified **PSRMA Projects:** In A.14-12-016, the Sempra Utilities presented a reasonableness review of projects with costs recorded in the Pipeline Safety and Reliability Memorandum Account (PSRMA). On June 30, 2015, the active parties in that proceeding filed a motion seeking approval of a A.14-12-016 A.14-12-0116 Revised Scoping proposed settlement to remove "in progress" Amended Memo of July 31, 2016, pp. 2-3. projects and defer their review until a later Sopping Memo of application. On July 31, 2015, a Revised Scoping Joint Petition of SoCalGas. July 31, 2015, Ruling in A.14-12-016 modified the scope of the SDG&E, ORA, TURN, and SCGC pp.2-3. proceeding to remove the in progress projects, and for Modification of D.14-06-007, ordered the parties to file a petition to modify October 19, 2015. D.14-06-007 consistent with the proposed settlement. A Joint Petition to Modify D.15-12-020, p. 19, COL 11, D.14-06-007 was filed by the settling parties from Ordering Paragraph 3. A.14-12-016 on October 19, 2015. In D.15-12-020, the Commission found it was reasonable to modify D.14-06-007 to clarify that all reasonableness reviews of hydrotest projects should take place after the project is completed. including for the twelve "in progress" projects that had originally been included in A.14-12-016. 5. Sempra Utilities' Application for Rehearing Verified: SoCalGas and SDG&E of D.15-12-020: The Sempra Utilities filed an However Application for Rehearing of application for rehearing of D.15-12-020. The TURN's work on D.15-12-020 (January 22, 2016). 30-page pleading included a range of arguments the Application challenging D.15-12-020, such as use of the of Rehearing is TURN Response to SoCalGas and incorrect burden of proof, deficiencies in the not ripe for SDG&E Application for Rehearing evidentiary record, abuse of Commission (February 8, 2016). review. The discretion and violation of the utilities' due Application for process rights. TURN filed a response that Rehearing responded to the array of utility-raised arguments. remains pending TURN is not at this time demonstrating a and TURN substantial contribution associated with the response to the application for rehearing. should file a However, as explained further below, TURN has request for included the associated hours here in the interests compensation of efficiency, based on the assumption that a within 60 days of decision on the application for rehearing will the resulting likely precede the decision on this request for decision as compensation. TURN is confident that the required by P.U. rehearing decision will likely make clear the Code 1804(c). substantial contribution of TURN's As such, the post-D.15-12-020 hours.

are denied
without
prejudice.

B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding? ¹	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Verified	
c. If so, provide name of other parties:		N/A
d. Intervenor's claim of non-duplication: TURN coordinated very closely with ORA. The two applications to developed by both parties working together, with TURN taking the initial drafts that both parties then refined and submitted as joint pl D.15-03-049 issued and provided an opportunity for additional test ORA each focused on separate areas in their separate testimony. To comments on the proposed decision that followed were also submit with each party focusing on the areas covered in their respective te TURN and ORA coordinated their responses to the Sempra Utilities.	Verified	
The Commission should find that TURN's participation was efficient with the participation of ORA wherever possible, so as to avoid un and to ensure that any such duplication served to supplement, compactoribute to the showing of the other intervenor. And consistent with the Commission should determine that all of TURN's work is compactonsistent with the conditions set forth in Section 1802.5.		

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

a. Intervenor's claim of cost reasonableness:	CPUC Discussion
TURN's request for intervenor compensation seeks an award of approximately \$64,000 as the reasonable cost of our participation in the proceeding. In light of the scope and quality of TURN's work, and the benefits achieved through TURN's participation in the proceeding, the Commission should have little trouble concluding that the amount requested is reasonable.	Verified; <i>see</i> Comment(s).
In their compliance filing made February 1, 2016, the Sempra Utilities identified reductions of \$4.3 million to the SoCalGas Safety Enhancement Expense Balancing Account (SEEBA), and \$136,000 (combined) to the SoCalGas and SDG&E Safety Enhancement Capital Cost Balancing Accounts. These figures reflect the costs recorded to date in those balancing accounts; the utilities will likely continue recording costs associated with 1955-1961 pipelines. The requested compensation amount is a very small fraction of the savings directly attributable to TURN's work.	
In sum, the Commission should conclude that TURN's overall request is reasonable in light of the substantial benefits to Sempra Utility ratepayers that were attributable to TURN's participation in the case.	
b. Reasonableness of hours claimed:	Verified; see
TURN's attorneys recorded a very reasonable number of hours for their work in this matter. Robert Finkelstein and Thomas Long were primarily responsible for the post-D.14-06-007 work. Mr. Long took the lead role in preparing the application for rehearing of D.14-06-007 on the 1955-1961 pipelines issue, consistent with his role as the attorney who litigated the matter for TURN prior to D.14-06-007. Mr. Finkelstein assumed the lead role for purposes of preparing the application for rehearing of D.14-12-021, and continued in that role throughout the preparation of testimony and briefs in response to D.15-03-049. He continued in this role through preparation of opening comments on the Proposed Decision. Due to Mr. Finkelstein's unavailability, Mr. Long resumed the lead role for purposes of preparing reply comments and preparing and presenting TURN's position during the all-party meeting with Commissioners conducted on December 8, 2015.	Comment(s).
In Progress Projects and Petition for Modification: _TURN has included in this request for compensation the hours associated with developing and presenting the settlement achieved in A.14-12-016 (the PSRMA reasonableness review application) regarding the removal of "in progress" projects from that proceeding. As described in the substantial contribution section above, the final action associated with that proposed settlement was the adoption in D.15-12-020 of the proposed modification of D.14-06-007 to clarify that future reasonableness review applications should include	

hydrotest projects when those projects are completed. Because the final action occurred in this proceeding, TURN is seeking compensation here of all hours associated with the settlement first achieved in A.14-12-016 and the resulting PFM submitted in A.11-11-002 and addressed in D.15-12-020. TURN submits that this is a reasonable approach, as it will achieve a more efficient use of TURN and Commission resources, as the efforts undertaken to achieve the adopted outcome will be addressed once rather than in two separate requests for compensation.

Sempra Utilities' Application for Rehearing: TURN has also included in this request for compensation the hours for preparing the response to the Sempra Utilities' application for rehearing. TURN's response was filed and served on February 8, 2016. TURN believes it is highly likely the Commission will issue a decision on that application for rehearing before it issues a decision on this request for compensation. Therefore, in the interest of efficiency and with the hope of limiting the number of compensation requests the Commission needs to address in this matter, TURN has included those hours here (they appear as the entirety of Mr. Finkelstein's non-compensation-related 2016 hours). If necessary, TURN would be glad to submit an amendment to this request once the Commission issues a decision on the Sempra Utilities' application for rehearing.

<u>Compensation Request Preparation Time</u>: TURN is requesting compensation for 5.0 hours devoted to compensation-related matters, all related to preparation of this request for compensation. Mr. Finkelstein prepared this request for compensation because his extensive knowledge of the efforts to seek rehearing and of the post-rehearing testimony, briefs, and final decision enabled him to prepare the request in a more efficient manner than if it were prepared by one of the other attorneys.

TURN submits that the recorded hours are reasonable. Therefore, TURN seeks compensation for all of the hours recorded by our attorneys and included in this request.

c. Allocation of hours by issue:

TURN typically allocates its daily time entries by activity codes based on the nature of the work reflected in each entry. Here all of the substantive work included in this request for compensation would have been given the same activity code – Treatment of 1956-1961 Pipeline Costs.

TURN has instead allocated the work based primarily on the pleading or testimony. The entries are designated initial rehearing request (App Rhg), the request for rehearing of the first decision on rehearing (Rhg on Rhg), the procedural, testimony-related, and briefing work that followed D.15-03-049 (Post Rhg), and the work reviewing the Proposed Decision, preparing opening and reply comments, and participating in the all-party meeting in December 2015 (PD). As noted above, TURN has included here the 32.5 hours for its work preparing the response to the Sempra Utilities'

Verified with the exception of TURN's 32.5 hours of work on the Application for Rehearing pending in this proceeding. These hours are removed from this claim and denied without prejudice.

application for rehearing of D.15-12-020; those hours are designated SEU Rhg.

TURN re-emphasizes that all of this work was associated with the single issue area of Treatment of 1956-1961 Pipeline Costs. However, should the Commission wish to consider an allocation of the work to sub-categories of that single activity or issue area, TURN submits the allocation by task and period described above as a reasonable allocation. If the Commission believes that a different approach to issue-specific allocation is warranted here, TURN requests the opportunity to supplement this section of the request.

TURN has also included here the 7.75 hours associated with the settlement achieved in A.14-12-016 for treatment of "in progress" projects for reasonableness review purposes, and with the resulting petition for modification of D.14-06-007. Those entries are coded "In Progress" in the time sheets.

B. Specific Claim:*

CLAIMED					CPUC AW	/ARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Robert Finkelstein	2014	6.75	\$505	D.15-08-023	\$3,408.75	6.75	\$505	\$3,408.75
R. Finkelstein	2015	46.0	\$505	2014 Rate	\$23,230.00	46.0	\$505	\$23,230.00
R. Finkelstein	2016	32.50	\$505	2014 Rate	\$16,412.50	0	\$505	\$0.00
Thomas Long	2014	17.50	\$570	D.15-06-021	\$9.975.00	17.50	\$570	\$9,975.00
T. Long	2015	16.75	\$570	2014 Rate	\$9,547.50	16.75	\$570	\$9,547.50
Subtotal: \$62,573.75				: \$62,573.75		Subtot	al: \$46,161.25	
		INTERVE	NOR CC	MPENSATION (CLAIM PREP	ARATIO	N **	
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
R. Finkelstein	2016	5	\$252.50	½ of approved 2014 rate	\$1,262.50	5	\$252.50	\$1,262.50
Subtotal: \$1,262.50 Subtotal: \$1,262.50								

² TURN took a similar approach in its second request for compensation in A.11-07-008 (CES-21), when the single issue was implementation of Senate Bill 96. In D.15-07-020, the Commission awarded TURN the full amount of requested compensation, and indicated the showing on allocation was "verified." D.15-07-020, p. 7.

	COSTS							
#	Item	Detail	Amount	Amount				
	Photocopying	Copies made of TURN pleadings for service, and copying charges from consultant billings	\$21.20	\$21.20				
	Postage	Expenses for postage for this proceeding	\$11.63	\$11.63				
	Computerized Research Computerized research costs associated with preparation of TURN's strategy and pleadings for this proceeding \$209		\$209.39	\$209.39				
		Subto	Subtotal: \$242.22					
		TOTAL REQUEST	TOTAL AWARD: \$47,665.97					

^{**}We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

^{**}Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate

ATTORNEY INFORMATION							
Attorney	Date Admitted to CA BAR ³	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation				
Robert Finkelstein	June 1990	146391	No				
Thomas Long	December 1986	124775	No				

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
Comment 1	2014, 2015 and 2016 Hourly Rates for TURN Representatives
	For 2014 hours, TURN has used the hourly rates already approved for work performed in that year by TURN's attorneys.
	For 2015 hours, TURN is requesting compensation using the rates authorized for 2014. This approach is generally consistent with the Commission's decision in Resolution ALJ-308 to not adopt a cost of living adjustment for 2015 for intervenor compensation purposes.
	For 2016 hours (all of which are either for work on TURN's response to the Sempra Utilities' application for rehearing, or for compensation-related work), TURN is also requesting compensation using the rates authorized for 2014. TURN requests that the requested rates NOT be deemed the adopted rates for Mr. Long or Mr. Finkelstein for 2016, as TURN may seek higher 2016 rates for one or both of these individuals in future requests for compensation.

³ This information may be obtained through the State Bar of California's website at http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch.

Comment 2	Expenses – TURN has included the reasonable expenses for photocopying and postage
	associated exclusively with our participation in this proceeding. TURN also incurred
	computerized research costs associated with the preparation of its testimony and pleadings.

D. CPUC Disallowances and Adjustments:

Item	Reason
1. 2016 Hours denied without prejudice.	TURN's filed records reflects work done on the currently pending Sempra Utilities rehearing application. These 32.5 hours are denied without prejudice.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

- 1. The Utility Reform Network has made a substantial contribution to D.15-03-049 and D.15-12-020.
- 2. The requested hourly rates for TURN's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
- 3. The claimed costs and expenses are reasonable and commensurate with the work performed.
- 4. The total of reasonable compensation is \$47,665.97.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

<u>ORDER</u>

- 1. The Utility Reform Network shall be awarded \$47,665.97.
- 2. Within 30 days of the effective date of this decision, San Diego Gas and Electric Company and Southern California Gas Company shall pay The Utility Reform Network their respective shares of the award, based on their California-jurisdictional gas and electric revenues for the 2015 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 1, 2016, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.
- 3. The comment period for today's decision is waived.

This de	ecision is effective today.
Dated	, at Sacramento, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	Modifies Decision?	No
Contribution Decision(s):	D1503049, D1512020	
Proceeding(s):	A1111002	
Author:	ALJ Bushey	
Payer(s):	Southern California Gas Company and San Diego Gas ar	nd Electric
	Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disal lowance
The Utility Reform Network (TURN)	2/16/2016	\$64,078.47	\$47,665.97	N/A	Hours denied without prejudice.

Advocate Information

First Name	Last Name	Туре	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Robert	Finkelstein	Attorney	TURN	\$505	2014	\$505
Robert	Finkelstein	Attorney	TURN	\$505	2015	\$505
Robert	Finkelstein	Attorney	TURN	\$505 / \$252.50	2016	\$505 / \$252.50
Thomas	Long	Attorney	TURN	\$570	2014	\$570
Thomas	Long	Attorney	TURN	\$570	2015	\$570

(END OF APPENDIX)